

Vermont Agency of Natural Resources

Cannabis Control Board – July 15, 2021

Water and Land Use Considerations

Vermont Agency of Natural Resources (ANR)

- Secretary's Office
- Department of Environmental Conservation (DEC)
- Department of Fish and Wildlife (DFW)
- Department of Forest, Parks and Recreation (FPR)

Primary Initial Focus Areas:

1. Air Emissions
2. Waste (solid, water, hazardous)
3. Water Supply
4. Stormwater
5. Potential for Jurisdictional Overlap/Act 250
6. Opportunities for Enhanced Technical Assistance

Air Emissions

1. Open Burning – (10 VSA §554, APCR §5-201)
2. Nuisance Odors -- (10 VSA §554, APCR §5-241)
3. Air Pollution Control Permits to Construct – (10 VSA §556, APCR §5-401)
4. Rules Regarding Phase-down of the use of Hydrofluorocarbons – (10 VSA 10 VSA §586; HFC Rules §38-301)

Solid Waste

Cannabis waste, like other crop wastes that are compostable, untreated plant/vegetative material would be considered **landfill banned**, however if composters won't or can't accept the material because it has been treated or is invasive, diseased, or may contain dangerous or hazardous substances, then it could be disposed (trash or landfilled) as a last resort.

Vermont Solid Waste Rule:

https://dec.vermont.gov/sites/dec/files/wmp/SolidWaste/Documents/SWRule.final_.pdf

Wastewater

Municipal Wastewater

- Capacity is managed at the municipal/system level.
- Cultivation and processing may result in high strength waste, especially for Phosphorous, which may require pre-treatment before going into a municipal system.
- Pretreatment requirements will depend on the receiving system's constraints, the receiving waters, and the specific constituents of the discharge for each specific facility.
- If pretreatment is required, it's permitted under 40 CFR § 403 and 10 V.S.A. § 1263.

Wastewater

Onsite – Indirect/UIC and Direct Discharge

- Indirect/UIC discharge
 - Tradition on-site septic
 - Underground Injection Control systems
 - Land application
 - Requires relevant permit and must comply with Groundwater Protection Rule:
 - <https://dec.vermont.gov/sites/dec/files/dwgwp/DW/Groundwater%20Protection%20Rule%20and%20Strategy.pdf>
- Direct discharge
 - Requires a direct discharge permit and must comply with Section 29A-106 of the Vermont Water Quality Standards (the VT Discharge Policy).

(Sanitary WW permitted like any other business for municipal or on-site)

Hazardous Waste

- Potential for Hazardous Waste generation from processing – depending on processing solvents (Current CBD extraction subject to Haz Waste Rules). Some potential during cultivation from pesticide use.
 - https://dec.vermont.gov/sites/dec/files/wmp/HazWaste/Documents/Regulations/VHWMR_Sub2.pdf
- Facilities generating less than 220 lbs. of waste per month (approx. ½ of 55G drum) are Conditionally Exempt Generators (least regulated), and facilities that generate between 220 and 2200 lbs. of hazardous waste per month are Small Quantity Generators (moderately regulated). The two solvent CBD processors in the state are currently notified as Small Quantity Generators. Refer to subchapter 3, sections 306 and 307 for specific requirements for each generator category.
 - https://dec.vermont.gov/sites/dec/files/wmp/HazWaste/Documents/Regulations/VHWMR_Sub3.pdf
- All hazardous waste generators (that are not households) are required to notify our program of their activities. It's a one time notification (but must be updated if info changes), and there's an annual registration fee (fee depends on size of facility/volume of waste generated).

Water Supply

Ground water

- Must comply with Groundwater Withdrawal and Permitting Rule.
 - <https://dec.vermont.gov/water/groundwater/groundwater-large-withdrawal>
- 20,000 gal/day on single track of land – need to yearly report of daily withdrawals.
- 57,600/day trip needing a permit, which is a very complicated and costly exercise – only one currently issued in the state. (40 gal/minute).

(These volumes need to be inclusive of public drinking water withdrawals.)

Water Supply

Surface Water

- Act 173 required the Secretary of the ANR to convene a surface water diversion and transfer study group to investigate and make recommendations to the general assembly about how ANR manages and regulates surface water use.
 - Group represents multi-stakeholders, including NGO, Business (Ski area/golf courses), Agency of Ag (FYI Ryan Patch is Agency Ag Rep), and Ag business.
 - Main task is to recommend to Legislature whether Vermont needs a water use registration program and/or a permitting program to better regulate the use of its waters.
- The Agency minimum flow procedure provides the methods and acceptable conservation flows needed to be maintain below a water withdrawal. When water is below these levels diversions need to cease.
 - Procedure does allow for water to be withdrawn at a de minimis rate regardless of streamflow, but these are often for users who need a small amount of water.
 - https://dec.vermont.gov/sites/dec/files/wsm/rivers/docs/rv_flowprocedure.pdf

Municipal Supply – allocated by the system operator.

Stormwater

- A facility generating an acre or more of new impervious surface requires an operational stormwater permit.
 - <https://dec.vermont.gov/watershed/stormwater/permit-information-applications-fees/operationalpermits>
- Currently don't believe cultivation triggers the need for a construction permit (1 acre or more of earth disturbance) but may require more research on our end.
 - <https://dec.vermont.gov/watershed/stormwater/permit-information-applications-fees/stormwater-construction-discharge-permits>

Potential for Jurisdictional Overlap and Act 250

- How to manage cultivation and/or processing in the context of an otherwise agricultural property?

Opportunities for Enhanced Technical Assistance

- ANR will likely target resources in the DEC Environmental Assistance Office to develop sector specific outreach and T/A materials.
- Modelled off successful outreach program for in-state breweries:
 - <https://dec.vermont.gov/sites/dec/files/Brewery%20Day%20Slide%20Deck%202018.pdf>

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